

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-525V

Filed: August 23, 2017

UNPUBLISHED

PATRICIA RUBIO,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Attorneys' Fees and Costs

Maximillian J. Muller, Muller Brazil, LLP, Dresher, PA, for petitioner.

Debra A. Filteau Begley, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Dorsey, Chief Special Master:

On April 28, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10, *et seq.*,² (the "Vaccine Act"). Petitioner alleged that she suffered right shoulder injuries resulting from "adverse effects" of an influenza vaccination received on October 23, 2014. Pet. at 1. (ECF No. 1). On July 18, 2017, the undersigned issued a decision awarding compensation to petitioner based on the parties' stipulation. Decision, dated July 18, 2017 (ECF No. 32).

On July 25, 2017, petitioner filed a motion for attorneys' fees and costs. Mot. for Attys' Fees and Costs, dated July 25, 2017 (ECF No. 34). Petitioner requests attorneys' fees in the amount of \$15,029.50 and attorneys' costs in the amount of \$646.80. *Id.* at

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

2. In accordance with General Order #9, petitioner's counsel represents that petitioner incurred no out-of-pocket expenses. Thus, the total amount requested is \$15,676.30.

On August 10, 2017, respondent filed a response to petitioner's motion. Resp. to Mot. for Attys' Fees and Costs (ECF No. 35). Respondent does not object to the overall amount sought, "as it is not an unreasonable amount to have been incurred for proceedings in this case to date." *Id.* at 1. Respondent adds that his "lack of objection to the amount sought in this case should not be construed as admission, concession, or waiver as to the hourly rates requested, the number of hours billed, or the other litigation related costs." *Id.* Petitioner has filed no reply.

The undersigned has reviewed the billing records submitted with petitioner's request. In the undersigned's experience, the request appears reasonable, and the undersigned finds no cause to reduce the requested hours or rates.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request, the undersigned **GRANTS** petitioner's motion for attorneys' fees and costs.

Accordingly, the undersigned awards the total of \$15,676.30³ as a lump sum in the form of a check jointly payable to petitioner and petitioner's counsel Maximillian J. Muller.

The clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See *generally Beck v. Sec'y of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.